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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,827	10/17/2003	Norbert Mueller	L034-002	2367
21567	7590	06/28/2004	EXAMINER	
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201			NGUYEN, THONG Q	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,827

Applicant(s)

MUELLER, NORBERT

Examiner

Thong Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/17/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the Pre-amendment filed on 10/17/2003. It is noted that in the mentioned pre-amendment, applicant has amended the specification. There is not any amendment to the claim(s).

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

3. The information disclosure statement filed on 10/17/2003 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

In particular, the reference labeled as DE 3425263 A1 listed in the form PTO-1449 has not been considered because applicant has failed to provide a concise explanation of the relevance of the mentioned reference.

Drawings

4. The drawings contain one sheet of figures 1a-3 were received on 10/17/2003. These drawings are objected by the Examiner for the following reason(s).

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5. Figures 1a and 1b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See the present specification in page 3. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parra (U.S. Patent No. 4,932,778) in view of Colea (U.S. Patent No. 6,537,479).

Parra discloses a telescope device having an illuminating device and an eyepiece wherein the device is able to use for gun sighting. See column 1. In the

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embodiment described in column 4 and shown in figure 5, the device comprises an eyepiece lens (29) and an eye alignment element which is a reticle having a configuration of a crosshair or a circle (see column 4 and figs. 7(a-d)). At column 4, lines 36, Parra discloses that the configuration acted as the reticle is engraved onto the eyepiece lens (29). The only feature missing from the device having a reticle engraved onto the lens as provided by Parra is that he does not explicitly state that the reticle is internal engraved into the lens as claimed.

However, an optical element having an image internally engraved into the optical element by a laser action is known to one skilled in the art as can be seen in the optical element having an image formed by laser action provided by Colea. See columns 3-5 and fig. 3. In column 5, lines 31-39. Colea has stated that the formation of an internal image within the body of an optical element as disclosed by him can be applied to make reticles in optical devices such as a gunsight.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the reticle engraved onto the eyepiece lens as provided by Parra by forming the reticle by an internal engraved process as suggested by Colea for the purpose of eliminating the contaminants occurred during the time of forming a reticle on the optical element.

9. Claims 1, 3-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al (U.S. Patent No. 6,729,062) in view of Colea (U.S. Patent No. 6,537,479).

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Thomas et al disclose a reticle for use in an optical sight. The reticle as described in columns 5-6 and shown in figure 3 comprises crosshairs formed in an optical element. It is noted that the formation of the crosshairs on the optical element is made by laser-engraved process as can be seen in claim 5 of the Patent. The only feature missing from the device having a reticle engraved onto the lens as provided by Thomas et al is that they do not explicitly state that the reticle is internal engraved into the lens as claimed.

However, an optical element having an image internally engraved into the optical element by a laser action is known to one skilled in the art as can be seen in the optical element having an image formed by laser action provided by Colea. See columns 3-5 and fig. 3. In column 5, lines 31-39. Colea has stated that the formation of an image can be made on the surface of the optical element or within the optical element. It is also noted that the formation of an internal image within the body of an optical element can be applied to make reticles in optical devices such as a gunsight. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the reticle engraved onto the eyepiece lens as provided by Thomas et al by forming the reticle by an internal engraved process as suggested by Colea for the purpose of eliminating the contaminants occurred during the time of forming a reticle on the optical element.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parra in view of Colea as applied to claim 1 above, and further in view of Phillips (U.S. Patent No. 5,414,557).

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The combined product as provided by Parra and Colea does not disclose that the reticle formed by internally engraving process is adapted to the image field curvature of the device. However, it is known to one skilled in the art to make/form the shape of a reticle as a curved reticle which curve is matched with the field of curvature of an optical device. One example of forming a reticle as a curved reticle in an optical sight is referred to as can be seen in the optical device provided by Philips. See columns 6-7 and fig. 4. It is also noted that an image made by laser action within an optical element can have any kind of shape/configuration as desired by an operator. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the combined product provided by Parra and Colea by making a reticle having a curved configuration which curve matches the field of curvature of an optical device as suggested by Phillips for the purpose of providing a better image to an observer.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al in view of Colea as applied to claim 1 above, and further in view of Phillips (U.S. Patent No. 5,414,557).

The combined product as provided by Thomas et al and Colea does not disclose that the reticle formed by internally engraving process is adapted to the image field curvature of the device. However, it is known to one skilled in the art to make/form the shape of a reticle as a curved reticle which curve is matched with the field of curvature of an optical device. One example of forming a reticle as a

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curved reticle in an optical sight is referred to as can be seen in the optical device provided by Philips. See columns 6-7 and fig. 4. It is also noted that an image made by laser action within an optical element can have any kind of shape/configuration as desired by an operator. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the combined product provided by Thomas et al and Colea by making a reticle having a curved configuration which curve matches the field of curvature of an optical device as suggested by Phillips for the purpose of providing a better image to an observer.

Conclusion

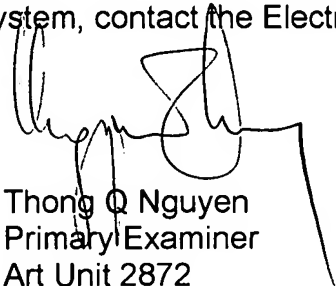
12. The prior art except the reference labeled as DE 3425263 A1 made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen
Primary Examiner
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